

### **REMARKS**

This is intended as a full and complete response to the Supplemental Office Action dated August 5, 2008, having a shortened statutory period for response set to expire on November 5, 2008 (herein extended). Please reconsider the claims pending in the application for reasons discussed below.

In the specification, the paragraphs [0066], [00294], [00410] and [00424] have been amended to correct minor editorial problems.

Claims 103-143 and 217-224 are pending in the application. Claims 103-115, 126-143, and 222-224 have been cancelled. Claims 116-125 and 217-221 and remain pending following entry of this response.

Further, Applicants are not conceding in this application that those amended (or canceled) claims are not patentable over the art cited by the Examiner, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the claimed subject matter. Applicants respectfully reserve the right to pursue these (pre-amended or canceled claims) and other claims in one or more continuations and/or divisional patent applications.

### **Elections/Restrictions**

Claims 126-143 and 222-224 directed to a non-elected invention have been cancelled.

### **Claim Rejections - 35 U.S.C. § 101**

Claims 103-115 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These claims have been cancelled, thus obviating this rejection.

### **Claim Rejections - 35 U.S.C. § 112**

Claims 122-125 are rejected under 35 U.S.C. 112, second paragraph, for referring the “the channel structure” of claim 21, which lacks antecedent basis. These claims have been

revised to refer to “the apparatus” of claim 21, rather than “the channel structure” of claim 21, which does have antecedent basis. Accordingly, Applicants respectfully request withdrawal of this rejection.

Claim Rejections - 35 U.S.C. § 102

Claims 103-104, 106-08, 116-125 and 217-221 are rejected under 35 U.S.C. § 102(e) as being anticipated by *Li et al.* (U.S. Publication 2002/0163879, hereinafter “*Li*”). Applicants respectfully traverse this rejection.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

In this case, *Li* does not disclose “each and every element as set forth in the claim”. For example, regarding claim 116, *Li* does not disclose a transmit data processor operative to process system parameters and a pilot for transmission via a broadcast channel, wherein the pilot is used for channel estimation of a downlink. Claims 121 and 217 disclose a similar limitation.

The Examiner alleges that *Li* discloses transmitting process system parameters and a pilot in paragraph [0028]. However, the cited paragraph is in fact directed to only broadcasting pilots to subscribers. In contrast, the present claims recite that two distinct elements (*i.e.* a pilot and system parameters) are being broadcast, while *Li* teaches transmitting only a pilot. Therefore, *Li* does not disclose a transmit data processor operative to process *system parameters and a pilot for transmission via a broadcast channel*, wherein the pilot is used for channel estimation of a downlink.

In further regard to claim 116, *Li* also does not disclose a transmit data processor *operative to process scheduling information for transmission via a forward control channel, wherein the scheduling information is for data transmission on the downlink and an uplink*, as

recited. Claims 121 and 217 disclose a similar limitation. The Examiner argues that *Li* discloses this element in paragraphs [0033] and [0070] (Applicants note that the Examiner actually cited to paragraph [0079], but it is believed that the Examiner meant to refer to paragraph [0070]). Specifically, the Examiner argues that the downlink control channel (as disclosed in paragraph [0033] of *Li*) can be used for notifying the subscribers of a cluster schedule.

While paragraph [0070] does disclose that a base station performs scheduling, nowhere is it disclosed that *scheduling information is for data transmission on the downlink and an uplink* is transmitted via a channel of any kind. Instead, paragraph [0070] simply states that as clusters become available, they are assigned to subscribers with the highest transmission rate among all subscribers associated with that cluster. Therefore, *Li* does not disclose a transmit data processor operative to process scheduling information for transmission via a forward control channel, wherein the scheduling information is for data transmission on the downlink and an uplink.

In further regard to claim 116, *Li* also does not disclose a receive data processor operative to process user requests received via a random access channel. Claims 121 and 217 disclose a similar limitation. The Examiner argues that *Li* discloses this element in paragraphs [0029] and [0032]. However, the cited paragraphs are in fact directed to subscribers sending feedback to a base station via a predefined uplink access channel.

Applicants respectfully submit that a predefined uplink access channel is not the same as a random access channel. When using a random access channel, user terminals transmit in a randomly selected slot of the random access channel. *See Application*, paragraph [00429]. In contrast, when using a predefined uplink access channel, a subscriber sends feedback to a base station “using a dedicated traffic channel (e.g., one or more predefined uplink access channels).” *See Li*, paragraph [0034].

Regarding claim 118, *Li* does not disclose wherein a broadcast channel and a forward control channel are transmitted using a diversity mode supporting data transmission with redundancy from a plurality of transmit antennas. Claims 123 and 219 disclose a similar limitation in paragraph [0021]. The Examiner argues that *Li* discloses this element in paragraph [0021]. The relevant portion of paragraph [0021] states that the methods disclosed in *Li* can apply to generic multi-carrier systems, “where a carrier can be . . . a data stream from one transmit antenna in a multi-input multi-output (MIMO) employing antenna arrays at both the transmit and receiving sides.” *See Li*, paragraph [0021]:5-11.

Clearly, this passage does not amount to a teaching that a broadcast channel and a forward control channel are transmitted using a diversity mode. In fact, the only commonality between the present claims and the cited passage is the use of a plurality of transmit antennas. Therefore, *Li* does not disclose wherein a broadcast channel and a forward control channel are transmitted using a diversity mode supporting data transmission with redundancy from a plurality of transmit antennas.

Therefore, Applicants submit that claims 116, 118, 121, 217, and the claims that depend therefrom are allowable. Accordingly, withdrawal of this rejection is respectfully requested.

### Conclusion

Therefore, for at least the reasons presented above with respect to all of the pending claims subsequent to entry of this response, Applicants assert that all claims are patentably distinct from all of the art of record. All objections and rejections having been addressed, it is respectfully submitted that this application is in condition for allowance and a Notice to that effect is earnestly solicited. If any points remain in issue that the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

**Charge Statement:** For this application, the Commissioner is hereby authorized to charge any required fees or credit any overpayment to Deposit Account 17-0026.

Respectfully submitted,  
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